



Insurance Department

State of Utah

GARY R. HERBERT
Governor
GREG BELL
Lieutenant Governor
NEAL T. GOOCH
Insurance Commissioner

State of Utah Title and Escrow Commission Meeting Meeting Information

Date: September 10, 2012 **Time:** 9:00 AM

Place: East Bldg, Spruce Room

MEMBERS

(Attendees = x)

COMMISSION MEMBERS

xChair, Larry Turner Blake, *Washington Cnty* xJerry M. Houghton, *Tooele Cnty*
xCo-Chair, Kirk Donald Smith, *Weber Cnty* Dirk Keyes, *Public Member*
xCortlund G. Ashton, *Salt Lake Cnty*

DEPARTMENT STAFF

xPerri Babalis, *AG Counsel* xBrett Barratt, *Deputy Comm.* xMark Kleinfeld, *ALJ*
Suzette Green-Wright, *MC Dir.* xTammy Greening, *Examiner* xTracy Klausmeier, *PC Dir*
xJilene Whitby, *PIO Recorder* xRandy Overstreet, *Dir. Lic.* xCathy Burton, *Lic. Spec*

PUBLIC

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|----------------|--------------|-------------|
| Carol Yamamoto | David Moore | Hugh Garner |
| Lucas Newman | Al Newman | Roy P. U? |
| Jeff Wiener | James Seaman | Mike Smith |
| Blake Heiner | | |

MINUTES

General Session: (Open to the Public)

- **Welcome / Larry Blake, Chair**
Larry began the meeting at 9:04 AM. He excused Dirk Keyes.
- **Adopt Minutes of Last Month's Meeting**
Jerry made a **motion** to adopt the minutes, Cort seconded it and the vote was unanimous.
- **Reports**
 - **Concur with Licensee Report / Tammy**
Cort concurred with the report, Jerry seconded it and the vote was unanimous.
 - **Concur with Complaint & Enforcement Reports / Tammy for Suzette**
All but a few cases from 61250 to 61285 were a result of conducting business without a license. The number of enforcement cases is up this year. One reason is that licensees are doing business after their licenses have lapsed. In May 2009 a law was enacted allowing licenses to be renewed by email and requiring licensees to notify the department of a change in their email address. In January the Department started sending renewal notice by email. Cort made a **motion** to concur with Enforcement Report and Jerry seconded it, the vote was unanimous.
 - **Request for Dual Licensee Expedited Request: None**
 - **Request for Attorney Exemption: Benjamin Ruesch**
No one was present to represent Mr. Ruesch. **Motion** by Cort to concur with the exemption, seconded by Jerry and vote was unanimous.
 - **Stipulation & Order:**
 - **Bartlett Title Insurance Agency, Inc., Case #3193**
While agency's license had lapsed, licensed producer completed 140 closings. Forfeiture of \$3,000 was proposed. Cort made a **motion** to concur, seconded by Kirk and vote was unanimous.

- **First American Title Ins. Agency, LLC, Case #3180**
Respondent conducted 29 closings while agency's license lapsed. Proposed forfeiture of \$3,000. Action taken against agent last month. **Motion** by Kirk to approve, seconded by Jerry and vote was unanimous.
- **Access Title Company, Inc., Case #3195**
Respondent conducted 17 closings with lapsed agency license. This was the second time. Proposed forfeiture was \$1,500. Jerry made a **motion** to concur, seconded by Cort, vote was unanimous.
- **Request for a Hearing:** None
- **Order on Motion:** None
- **Informal Adjudicative Proceeding & Order:** None
- **Formal Adjudicative Proceeding - Prehearing Conference Scheduled for Sept. 26: LSI Title Ins. Agency of Utah, Inc.; LSI Title Co.; National Title of New York, Inc.; & Tim A. Krueger.**
Mark announced that he would set a hearing date in a next month or two. It will take longer to set up due to numerous witnesses from out of state. The hearing will take at least two days.
- **Old Business**
 - **Discuss Definition of Real Estate Escrow Settlements & Real Estate Closings / Cort**
He met with Brett and Perri to review the definition. It needs to be put into its own bill due to controversy. Cort recommend this be removed from the agenda. He will see if ULTA can take it on and clean-up the language.
 - **Legislative Rules Committee Mtg of 9-4-2012 Re: Rule R592-16 & 17**
Cort noted that they provided feedback to the Legislative Rules Committee 9-4-2012 regarding R592-16 and 17. The main concern was 17 since it was required by law. Mr. Stevens and Krueger laid serious charges against the Commission and department. He and Kirk were given no time for a defense. The Rules Committee noted that the rule described who could make a search but not what the minimum standards were. Perri suggested following the normal rulemaking process when the Commission refiled the rule. Department of Administrative Rules will make sure the Legislative Rules Committee sees the rule. Larry thanked Cort and Kirk for representing them.
- **New Business**
 - **Legislation: Proposed Wording to Eliminate Conflicting Language Between 31A-2-404 (2)(a)(iv) and 31A-23a-204(6) / Perri & Brett**
Perri thought the best solution to resolve the conflict was to eliminate the Commission's responsibility to write rules for examination procedures. Discussed how exam questions could be updated at the annual review workshop in July. Changes made at this meeting come out in December. Law changes are made the next spring and made a part of the test in December. Commission decided they wanted some oversight and the ability to concur with the Commissioner. Perri will work with Brett on new wording. David suggested a couple of Commission members attend the workshop in July. He said he has suggested changes to the company that handles testing and they have ignored him.
 - **Email Notice for Renewals / Randy Overstreet & Cathy Burton**
Cathy, a licensing specialist who handles renewals reviewed the department's electronic renewal process with the Commission. They are experiencing a 6.33% bounce back of undeliverable email as compared with 10% of mailings that were returned.
 - Licensing rules that were applicable to title as well as other producers and agencies were reviewed:
 - ✓ R590-258.3 sets requirements to maintain a valid email address with the department and make sure the spam program will accept department emails.

- ✓ Rule R590-244 provides individual and agency licensing requirements, noting that when a license lapses or/and non-renews so do the appointments and designations. All must be reinstated when the license is renewed.
- ✓ Notification of License Renewal Process was released 12-15-2011.
- ✓ UCA 31A-23a-412, Place of business and residence was amended 5-8-2012.
- ✓ Bulletin 2012-3, Requirements for Agency and Consultants Licenses.
- Jerry noted that these rules and bulletins were not included on the Title website under Rules and Bulletins. Tammy reminded them that their general producer license makes them subject to R590 rules as well as R592 rules.
- Larry asked how long it took to reinstate a lapsed license. Cathy said that if it is discovered at the end of the month then there is a three day waiting period, otherwise just a day.
- Cort made **motion** to move to Executive Session to discuss pending litigation, Kirk seconded it and the vote was unanimous at 10:10 AM.
- **Other Business:** None
- **Executive Session** (Not open to the Public)
 - Jerry **moved** to adjourn Executive Session, Kirk seconded it and the vote was unanimous.
- **General Session** (*Open to the Public*)

No members of the public were there for the General Session.

 - Cort made a **motion** to adjourn at 10:45AM, Jerry seconded it and the vote was unanimous.
- **Next Meeting:** October 15, 2012, Spruce Room

2012 Meetings in Spruce Room

~~Jul 9~~

~~Aug 6~~

~~Sept 10~~

Oct 15

Nov 19

Dec 10